

EXHIBIT 13

(Supplement)

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 - - - - -x

5 SERGEY LEONTIEV,

6 Plaintiff,

Case No. 16-cv-3595

7 -against-

8 ALEXANDER VARSHAVSKY,

9 Defendant.

10 - - - - -x

11 January 5, 2017

12 9:41 a.m.

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14
15 Videotaped deposition of
16 ALEXANDER VARSHAVSKY, taken by Plaintiff,
17 pursuant to Notice, held at the offices of
18 Gibson, Dunn & Crutcher LLP, 200 Park
19 Avenue, New York, New York, before
20 Sharon Lengel, a Registered Professional
21 Reporter, Certified Realtime Reporter, and
22 Notary Public of the State of New York.

23
24 * * *
25

A P P E A R A N C E S:

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BY: SEAN HECKER, ESQ.

ALISA MELEKHINA, ESQ.

ALSO PRESENT:

WAYNE SALINE, Videographer

ROMAN SANIKOV, Interpreter

ALEXANDER KULNEV, ESQ.

* * *

1 VARSHAVSKY

2 MR. HECKER: -- to hear the
3 question. Objection to form. You can
4 answer.

5 A. No.

6 Q. Did you ever get any written
7 authorization from any of those
8 individuals to negotiate on behalf -- on
9 their behalf to seek repayment of their
10 claims?

11 MR. HECKER: You can answer.
12 You can always answer.

13 A. No.

14 Q. Okay. Which Avagumyan -- I
15 understand there are two. There are
16 probably many. But what is the first name
17 of the Avagumyan individual who asked you
18 to negotiate on his or her behalf?

19 A. Both, father and son.

20 Q. And what are their names?

21 A. Kamo and Karen.

22 Q. When did you -- when did
23 Mr. Kamo Avagumyan first ask you to
24 negotiate to resolve his claims?

25 A. Two -- a year and a half ago, as

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2 says, "Yes, except we need them to work in
3 the same area, both with respect to ERK
4 and Avilon without any forward contracts
5 in Rubles."

6 Do you see that?

7 A. Yes.

8 Q. What is ERK?

9 A. European Realty Corporation.

10 Q. And do you understand what that
11 sentence means?

12 A. No.

13 Q. Did ERK have loans to
14 Probusinessbank or any of the offshore
15 entities?

16 A. I don't know. Maybe.

17 Q. Okay.

18 (Pleading's Exhibit 65, An
19 email, Bates SL0033745, was hereby
20 marked for identification, as of this
21 date.)

22 A. (Witness perusing document.)

23 Q. So Exhibit 65 starts out with an
24 email from Yanna Krisiuk, who is at
25 Probusinessbank, to yourself, dated

1 VARSHAVSKY

2 August 31, 2011.

3 Do you see that?

4 A. Yes.

5 Q. It says, "Alexander, good
6 evening. Sending to you the report
7 accounting for replenishment of assets."

8 Do you see that?

9 A. Yes.

10 Q. Do you know if Probusinessbank
11 or Ambika had paid down some of the --
12 some of the \$19.9 million loan at this
13 point in time?

14 MR. HECKER: Objection to form.
15 Compound. You may answer.

16 A. I have no idea.

17 Q. Do you know what Ms. Krisiuk is
18 referring to when she speaks of
19 replenishment of assets?

20 A. No.

21 Q. Okay. The email on top is from
22 Ms. Monakhova to Yanna.

23 Do you see that with a CC to
24 you?

25 A. Yes.

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2 Q. It says, "Yanna, please send the
3 rate for the new placement, 6,625,000."

4 Do you see that?

5 A. Yes.

6 Q. Did you make a -- did Aviron
7 make a new loan to Ambika of 6,625,000 at
8 or around August 2011?

9 A. I don't see where it says to
10 Ambika. Maybe it was to a different
11 company, maybe for Probusinessbank. I
12 have no idea.

13 Q. You have no idea.

14 Okay. All right.

15 (Plaintiff's Exhibit 66, An
16 email, Bates SL0033741, was hereby
17 marked for identification, as of this
18 date.)

19 A. (Witness perusing document.)

20 Q. Exhibit 66 at the bottom is an
21 email from Ms. Nazanskaya to Ms. Monakhova
22 with a CC to Ms. Krisiuk.

23 Do you see that?

24 A. Yes.

25 Q. It's all dated

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2 September 1, 2011?

3 A. Yes.

4 Q. It seems to be referring to that
5 same 6.625 million that we were discussing
6 on the previous exhibit.

7 Do you see that?

8 A. Yes.

9 Q. Okay. And the email to -- from
10 Ms. Nazanskaya says, "The rate
11 Probusinessbank is offering for the
12 placement of newly received 6.625 million
13 is 11 percent, same as under existing
14 technical loans."

15 Do you see that?

16 A. Yes.

17 Q. That 11 percent is the same rate
18 that you agreed the loan to Ambika would
19 be reduced to; correct?

20 A. I cannot comment right now. I
21 don't remember.

22 Q. We just looked at it.

23 A. I don't know -- I don't know --

24 MR. HECKER: Objection. He
25 testified he didn't remember

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2 11 percent.

3 Q. Okay. Let's go back to
4 Exhibit 64.

5 Do you see that it states there
6 that "The rate Probusinessbank is offering
7 for the next year is 11 percent. The
8 existing rate is 15 percent. Yanna
9 Krisiuk reported that Alexander is aware
10 of this and agreed to the rate on
11 November 30th."

12 Do you see that?

13 A. Yes.

14 Q. Okay. Now, in Exhibit 66, it
15 states that "The rate Probusinessbank is
16 offering for the placement of the newly
17 received 6,625,000 is 11 percent, same as
18 under existing technical loans."

19 Do you see that?

20 A. Yes.

21 Q. Okay. Is that the same
22 11 percent that was referred to in
23 Exhibit 64?

24 MR. HECKER: Objection to form.
25 Foundation.

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2 (PPlaintiff's Exhibit 68, An
3 email, Bates SL0000080, was hereby
4 marked for identification, as of this
5 date.)

6 Q. Mr. Varshavsky, I've handed you
7 Exhibit 68, which is an email from
8 Mr. Robert Stahl to Robert Weigel with a
9 CC to Rich Sapinski.

10 Who is Mr. Stahl?

11 A. My attorney.

12 Q. And he's represented you for a
13 number of years; is that correct?

14 A. Correct.

15 Q. Okay. Did you review this email
16 before it was sent?

17 MR. HECKER: Objection to the
18 form of the question. I'm going to
19 caution you -- if you can answer that
20 question without disclosing
21 communications you had with Mr. Stahl
22 as your counsel, you can answer that
23 question. But I want you to be
24 careful about not disclosing
25 discussions you had or communications

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2 MR. HECKER: Objection to form.
3 Compound.

4 A. We never using the word
5 "secure." We always was using the word of
6 "guarantee." All the loan was guaranteed
7 by Mr. Leontiev.

8 Q. Okay. As a businessman, you
9 know what the concept of secured lending
10 is; correct?

11 A. That's actually what we've been
12 asking Leontiev lately.

13 Q. Right. But Avilon probably has
14 some secured financing with regard to its
15 inventory perhaps?

16 A. That's not my business.

17 Q. Okay. But you know what a
18 secured loan is. It's like a mortgage on
19 a house; right?

20 A. Yes.

21 Q. All right. You provide
22 collateral, and you can go after that
23 collateral if, in fact, the loan isn't
24 repaid; right?

25 A. Yes.

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2 Foundation.

3 A. I can repeat several times.
4 When it comes to the money transfer --
5 it's not what I'm doing. I cannot help
6 with that. I don't know.

7 Q. What does "VKS" stand for in
8 line 3?

9 A. That's also -- I was thinking
10 right now I cannot find the explanation.

11 MR. HECKER: No. No. Wait for
12 the question.

13 Q. Can you just look at it in
14 Russian and see if that helps?

15 A. I looked at it in Russian
16 specifically. I don't know.

17 Q. It says, "to be sent to the
18 U.S. -- to be sent not to the U.S. but to
19 Sanbay as per the letter."

20 Do you see that?

21 A. Yes.

22 Q. Why is Aylon discussing sending
23 money to Sanbay?

24 A. I don't know.

25 Q. Did Aylon owe money to Sanbay?

1 VARSHAVSKY

2 A. I don't know.

3 Q. Who is Irina Meshkova?

4 A. She is the chief comptroller or
5 chief accountant.

6 Q. Okay. She writes to Yulia with
7 a CC to Irina Monakhova. "Yulia, we need
8 about US 1.05 million for the remainder of
9 the year."

10 Do you see that?

11 A. Yes.

12 Q. "Including the yacht, U.S.
13 dollars 520,000, the airplane, U.S.
14 dollars 530,000."

15 Do you see that?

16 A. Yes.

17 Q. What airplane are we talking
18 about?

19 A. I don't know. Maybe it's
20 referring to the Sanbay, the plane owned
21 by Karen.

22 Q. Did you own an airplane?

23 A. Me?

24 Q. Yes.

25 A. No.

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2 if it went to Ambika or a different
3 company what he has. But I know
4 definitely it went to Zheleznyak and
5 Leontiev company.

6 Q. How do you know that?

7 A. Zheleznyak was telling me all
8 the time.

9 Q. Do you know -- but you didn't
10 even know what company the money was being
11 lent to; is that correct?

12 A. No. He was telling me it was
13 going to the company in Cyprus. He was
14 telling me a lot of story about that, what
15 they was purchasing some real estate
16 there, because they was applying for --
17 for the Cyprus passport. They said, "We
18 need the money over there." He was
19 telling me a lot of story.

20 Q. When did Mr. Zheleznyak tell you
21 he was applying for a Cyprus passport?

22 A. Two years ago. Maybe a year or
23 maybe -- yeah, around a year before
24 they -- they left Russia.

25 Q. Okay.

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2 A. In 2014, maybe '15. I don't
3 remember exactly.

4 Q. And when did Avilon make the
5 first loan to Ambika?

6 A. I don't remember that.

7 Q. If I told you 2008, would that
8 refresh your recollection?

9 A. Yeah, maybe.

10 Q. Do you have any reason to
11 believe that the money that Avilon
12 advanced to Ambika in 2008 was used by
13 Mr. Zheleznyak to get a passport in
14 Cyprus?

15 A. No, not at that time.

16 Q. Do you have any reason to
17 believe that the money that Avilon
18 advanced in 2011 was used by
19 Mr. Zheleznyak to get a passport in
20 Cyprus?

21 A. I have a lot of conversation
22 with Zheleznyak. He was -- just was
23 trying to explain me why and how they
24 using the money. He say -- he was telling
25 me what the some of the money they put for

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2 the real estate; some of the money Sergey
3 work on a stock exchange; some of the
4 money use for something else.

5 And one time, he was telling me
6 what they are buying real estate in
7 Cyprus. They need the money right now to
8 the Cyprus, because they have to buy to
9 have the Cyprus passport, five people.

10 Q. Do you have any reason to
11 believe that it was money from Avilon that
12 was used to purchase or to invest in
13 Cyprus to get passports for five people?

14 A. No. No.

15 MR. HECKER: Objection to form.
16 Foundation.

17 Q. Okay. We've been going at it
18 quite a while. Why don't we take a short
19 break.

20 THE VIDEOGRAPHER: This marks
21 the end of Tape No. 3 in the
22 videotaped deposition of Alexander
23 Varshavsky. We are going off the
24 record. The time is 2:53.

25 (Recess)